

**Draft Minutes  
Delta Protection Commission Meeting  
August 23, 2001**

**1. Call to Order**

The meeting was called to order at 6:35 p.m. Commissioners present were: Chairman McCarty; Vice Chair Ferguson; Commissioners Bedford, Cabaldon, Calone, Curry, Curtis, Macaulay, McGowan, Sanders, Shaffer, Thomson, van Loben Sels, Wilson, and ex-officio member Helen Thomson. Absent were Commissioners Brean, Coglianese, Gleason, Glover, and Nottoli.

**2. Public Comment Period**

There were no public comments.

**3. Minutes of the Last Meeting**

Chairman McCarty said that DPC staff circulated the draft minutes covering the presentation and discussion of proposed acquisitions in the Yolo Bypass; the full draft minutes would be reviewed at the September meeting. He asked for any comments or corrections to the portion of the draft minutes pertaining to the Yolo Bypass acquisition.

Commissioner van Loben Sels said that on page 2, paragraph 2, the Wilcox Ranch is separate from the Glide property.

**4. Chairman's Report**

Chairman McCarty said the next meeting of Commission is scheduled for Thursday, September 27, at Jean Harvie Community Center. Tentatively scheduled agenda items include: the development of CALFED's Ecosystem Restoration Plan for the Delta; a discussion of the CALFED draft Implementation Strategy (covering all CALFED program components) for the Delta; and review of the scoping document for preparation of a Delta Recreation Master Plan.

**5. Commissioner Comments/Announcements**

There were no Commissioner comments.

**6. Attorney General's Report**

Christine Sproul, Attorney General's office, had nothing to report.

**7. Executive Director's Report**

Ms Aramburu noted that the mailing packet included a pending projects memo, and she had circulated at the meeting a letter faxed by Yolo County Supervisor Tom Stollard and Supervisor Pollock regarding the Yolo Bypass acquisition.

**8. Briefing on Proposed Acquisition of Lands in the Yolo Bypass, Yolo County**

Ms Aramburu noted that at the last meeting, Commissioner Curtis had informed the Commission of a pending action before Wildlife Conservation Board (WCB) for acquisition of two large pieces of property. The first is Wilcox Ranch, which lies outside of the Legal Delta in Solano County, so would not be discussed that evening. The other proposal was to acquire two pieces of property, totaling approximately 13,000 acres, in Yolo County. One of the pieces of property lies north of the existing Yolo Bypass Wildlife Area, managed by DFG in partnership with Yolo Basin Foundation, and the other piece lies to the south. Both of the properties have boundaries coterminous with those of the Wildlife Area.

Ms Aramburu said that the staff report uses the format that the Commission adopted for review of CALFED Ecosystem Restoration Program projects. Because of the short preparation time on this particular memo, staff was not able to obtain all desirable information for the report, so some issues are “unknown”. She thanked Dept. of Fish and Game (DFG) staff for agreeing to come back to DPC to get the Commission’s and the public’s input before the matter is heard by WCB (hearing scheduled for August 30).

Commissioner Curtis said he appreciated the opportunity to make the presentation and thanked everyone for attending the meeting to express their concerns, in order that DFG may be able to improve its process. He introduced Dave Feliz, Manager of the Yolo Bypass Wildlife Area, who was to report on the background of the Wildlife Area – how it’s managed, what it does, and how it fits into current local government planning.

Dave Feliz, DFG, presented a slide show in which he explained what the existing Wildlife Area is, the ground rules under which it is operated, and some management ideas for the proposed acquisitions. He reported:

The 3,700-acre Yolo Bypass Wildlife Area is home to over 200 species of wildlife, including cormorants and colonies of nesting shore birds, and usually winters over 100,000 waterfowl. It is surrounded by agriculture and by one of the busiest highways in the nation.

The Wildlife Area consists of 2,400 acres of seasonal wetlands (these lands are dry during summer to grow annual plants that set seed and feed animals arriving in fall and winter). These seasonal wetlands allow for coexistence of the Wildlife Area with agriculture, as the agriculture uses the water in summer while the Wildlife Area uses the water in winter. There are also 200 acres of permanent wetlands; these permanent wetlands were designed with steep sides to avoid shallow water habitat where mosquitoes may breed.

Because of the Wildlife Area’s location within the Yolo Bypass, a federal flood control structure, it is operated under a Reclamation Board permit, so there are certain regulations specific to flood control to which the Wildlife Area must adhere. DFG maintains no more than 5% emergent vegetation in the 2,400 acres of seasonal wetlands that comprise the majority of the Wildlife Area; emergent wetland vegetation includes cattails and tules. For the 200 acres of permanent wetlands on the WA, DFG is restricted to 50% emergent vegetation; this yields a total of no more than 100 acres of tules in the permanent wetland areas. Riparian vegetation is not allowed in the Yolo Bypass, except in areas where hydrologic modeling shows that such vegetation will not slow down floodwaters. The Wildlife Area also operates under an MOU with the Reclamation Board, DWR, and USFWS regarding endangered species; there was a fear that endangered species would appear on the Wildlife Area and affect the ability to manage it, thereby having a possible detrimental effect on moving flood water through the Yolo Bypass. The MOU reaffirms that the primary purpose of the Yolo Bypass is flood control; it states that the Wildlife Area will not be managed for endangered species so DFG shouldn’t try to make the Wildlife Area more attractive to those species.

There are currently 200 acres under agricultural production in the Wildlife Area – crops for this year include corn, safflower, wheat, milo, and millet. The Wildlife Area spends a lot of money on heavy agricultural and grading equipment at the existing area, including the use of mechanics from Woodland and West Sacramento.

Public uses of the area include tours and a public hunting program. In the last year, over 2,000 hunters and almost 150 junior hunters have participated in the hunting program; the hunting

program includes a fully accessible hunting blind that can be utilized by people in wheelchairs. Since the blind was built last year, it's been used about a dozen times. Public tours/field trips occur once a month. DFG also partners with Yolo Basin Foundation on an environmental education program; this year, approximately 3000 students visited the Wildlife Area to learn about wetlands and uses for wetlands.

Among the properties being considered for acquisition are Glide Causeway Ranch located to the north of the existing Wildlife Area, the Los Rios property located to the west, and Tule Ranch located to the south. Greens' Lake, a natural lake with riparian vegetation and rumors of sturgeon, is on the Glide Causeway Ranch. The Los Rios property is centered on Putah Creek, at its terminus where it enters the Delta at the Putah Sinks, a series of permanent wetlands. There is riparian vegetation along the banks of Putah Creek. Tule Ranch is 9,600 acres; there's currently incredible prairie coexisting with the grazing program on Tule Ranch and a good assemblage of native plants at that site.

Some ideas for management of the proposed acquisitions: maintaining the grazing on Tule Ranch (approx., 5,000 acres of grazing); maintaining agricultural leases on the properties; and habitat restoration on some of the land in the Bypass. Another option being considered is selling back surplus land with conservation easements.

DFG has been participating with landowners and stakeholders in Yolo Bypass to address potential landowner concerns over habitat restoration in the Bypass, and what assurances they'd like to have. Some concerns and conceptual responses are:

- Effects of Wetlands Management on the Flood Capacity of the Yolo Bypass.  
DFG is not permitted to reduce the capacity of the Yolo Bypass. Any restoration of wetlands would proceed only through permitting by the State Reclamation Board and in a way that will not impact the flood capacity of the Bypass.
- Water Supply for the Private Wetlands (Duck Clubs)  
Tule Ranch is south of 5,000 acres of duck clubs whose source of water is not very firm. The Wildlife Area will work with these duck clubs to ensure a reliable water supply. Currently water flows across Tule Ranch onto the duck clubs; the Wildlife Area would be willing to share in the maintenance costs and deliver water to the duck clubs.
- Endangered Species – Safe Harbor Agreements  
DFG Wildlife Area staff would pursue the expansion of the existing MOU onto the new lands.
- Effects of Water Sales and Transfers from the Yolo Basin (Surface and Groundwater)  
Water will be used and will stay in Yolo County; DFG will not consider the sale and transfer of water.
- Maintain a Realistic Perspective on the Agricultural Use of the Yolo Bypass  
These lands are difficult to farm; they drain poorly and are subject to flowage easements. Through agricultural leases and wetland development, the productivity of these lands may increase. Currently, there is a lot of fallowed land on the properties, especially on the Tule Ranch, where 2/3 of the property is fallow; the rest is farmed mostly in feed corn and safflower. The land that is currently fallow would probably be put into some sort of

production, wetland or otherwise, so the productivity of that land would increase. The grazing on Tule Ranch would probably remain in place.

- Retain Some Agricultural Activity  
While a management plan is developed, all agricultural leases would be maintained, and even in the expanded Wildlife Area, some acres will remain in agricultural production through leases on the State land. The grazing program on Tule Ranch should continue to enhance the natural prairie vegetation; native plant experts agree that grazing is an integral part of native grass management.
- Hunting Program on any new State Lands  
There will be a public hunting program for waterfowl and upland game. It is anticipated there will be other public use programs, including wildlife viewing, educational programs, and fishing.
- Loss of Property Tax; Impact on Yolo Co.  
Once an area is designated as a State Wildlife Area, the Fish and Game Commission can authorize the expenditure of in-lieu fees. The existing Wildlife Area has been paying these in-lieu fees consistently for the nine years it has been in existence. The Wildlife Area pays the amount the owner paid in property taxes when the property was sold.

Commissioner Curtis went over the proposal: an acquisition of 12,808 acres for \$16,630,000, referred to as Expansions 3 and 4 to the existing Wildlife Area. Under Expansion 3, Causeway Ranch (to the north of the Wildlife Area) consists of about 3,000 acres; Geiberson Ranch (to the west) consists of about 160 acres; and Tule Ranch (to the south) consists of about 9,000 acres. Expansion 4, Los Rios farms, would be approximately 685 acres at a price of \$1,721,000.

The WCB meeting for August 30 is a public meeting to decide whether or not to allocate funds. If WCB decides to allocate funds for this acquisition, the WCB staff will move forward with escrow and pursuing transfer title. Titles would then be transferred to DFG. Once DFG receives title and has access to the land, it will begin the process of developing a management plan. Many people have asked why a management plan isn't completed before the purchase of the property. First, DFG doesn't have access to the property, so staff hasn't been able to assess its habitat value, and isn't prepared to write a management plan. Second, some proposed transactions fall apart during negotiations, so a management plan for the property could be a waste of time. DFG wants development of the management plan for this property to be an open process. DFG staff committed to meet with DPC and other interested parties to discuss development of the management plan and get input on what acres should be managed in which land use.

Management plans usually take a year to 18 months to complete; Commissioner Curtis anticipates a lot of open public meetings. Once completed, if the management plan requires some action that triggers CEQA, DFG would then proceed with appropriate environmental documentation; this CEQA process allows for even more public input into the process. DFG is recommending to WCB that a condition of the purchase of the property includes a five-year lease back to landowners currently farming there, ensuring the property remains in agricultural production while the management plan is being formulated. Through the normal State bidding process, such agricultural leases would go out to bid, but in this case, the condition would be written directly into the acquisition, so the agricultural leases could go directly to the current landowners. DFG will have the option to extend those leases after five years, but at that point, the leases would be subject to the normal State bidding process.

Commissioner Curtis said that he has heard various concerns from other Commissioners at the last meeting and from other entities. One common concern is that interested parties feel they weren't notified early enough in this process. DFG has been looking at the Glide property for nearly ten years, ever since the establishment of the existing Wildlife Area, as a desirable addition to the Wildlife Area. When the proposal for the North Delta National Wildlife Refuge was being discussed, DFG expressed interest to USFWS in owning and operating the Glide property as part of the Refuge, should it be established. WCB is only authorized to pay market value, so they needed to get an appraisal done for the property; this appraisal was done in June, and the deal came together sometime in July 2001. It was at the Commission's July meeting that Commissioner Curtis circulated WCB staff's draft write-up on the project; the final report on the project (circulated to DPC in its mailing) is to come before WCB on August 30. The Glide property owners are anxious for this sale to proceed as quickly as possible.

Commissioner Curtis has had discussions with Commissioners about trying to address acquisitions more on a conceptual basis, because in negotiations for a specific parcel, there is a certain level of confidentiality, making it difficult to discuss a proposal until the deal has been made. DPC is not on the WCB's list of parties automatically notified of potential acquisitions in the Delta; DPC will be added to that list.

Another important issue expressed was flood control; the Wildlife Area's operations are subject to a State Reclamation Board permit, and DFG has had a fairly good working relationship with the Rec. Board in determining which management actions are conducive to maintaining capacity of the Yolo Bypass and which actions are not.

CEQA has been an issue. WCB standardly uses Categorical Exemptions for land acquisitions, with the idea that more elaborate CEQA compliance in the form of environmental documentation does not apply until a management plan is in place and actual land use changes are proposed. Some people feel this environmental documentation should occur at the time of purchase; DFG's current position is that the Categorical Exemption is the appropriate document at the time of acquisition.

Commissioner Curtis said that at the last meeting, Commissioner McGowan had expressed concern about how or whether this proposed acquisition fits into the County's HCP, and if it would decrease the amount of land available to the County to perform its own mitigation activities for development. He had also asked if, in the case DFG did not have the funds to adequately manage the property, it would be possible to use endowment funds. In any HCP/NCCP process, there is a conservation strategy, outlining desirable areas and acreage's for covered species; this differs from a standard mitigation program that tries to offset the negative impacts of one particular development project. Under the HCP/NCCP program, there is more of a partnership between government agencies and project proponents. From DFG's perspective, if it acquires land containing habitat for any NCCP-covered species, then that purchase would count toward the total acreage needed to preserve the species. Legally, State dollars cannot be used to provide mitigation for private development. So if there's an identified target acreage, then that target would be reduced by whatever number of acres of each habitat type DFG provides through the acquisition; this reduces the overall needed habitat, but the reduction is not credited to any one development or entity.

Commissioner McGowan asked for clarification – if within its HCP a County identifies a certain needed habitat acreage to mitigate development, and this proposed acquisition covers all of the required mitigation under the HCP, what would the County do with the moneys raised, in order to adhere to NCCP? Commissioner Curtis said normally, the required mitigation acreage would be

more than 14,000 acres; the amount DFG acquires is usually a small part of a County's required mitigation acreage. It would not be legally possible for DFG to meet a County's mitigation requirements. Commissioner McGowan said that in making this acquisition, DFG may be meeting specific scientific requirements laid out in the HCP, and asked what the County does with the money collected in the case that these scientific requirements have already been met (could endowment funds be used by the County to manage lands purchased by DFG?). Commissioner Curtis answered that funds could be used in this manner; typically, those dollars are managed by some type of a Joint Powers Authority (JPA) and utilized at its discretion. DFG would make every effort to manage its lands appropriately, but in the event DFG runs out of money, the JPA's money could be used on DFG land to meet the goals of an HCP. This is all negotiated into the Implementing Agreement.

Commissioner Curtis said that regarding in-lieu fees, DFG pays whatever amount of taxes the landowner was paying at the time DFG purchased the land. This concerns some Counties because normally when there's a sale of land, the County would increase taxes to reflect the land's current worth; they can't do this with DFG. The liability for taxes begin once the acquired property is designated a Wildlife Area, and sometimes there's a lag period of a few months. If the land is designated an Ecological Reserve, DFG is not required to pay in-lieu fees. DFG currently plans to designate this particular area as a Wildlife Area.

Commissioner McGowan asked for clarification on the in-lieu taxes paid: is this based on the original purchase price of the previous owner, or the tax rate on the property at the time DFG acquires it? Commissioner Curtis answered that it's the tax rate at the time of acquisition. Commissioner McGowan asked if DFG is responsible for other fees or taxes that the previous owner was responsible for, such as mosquito abatement and reclamation district taxes. Commissioner Curtis answered that in some areas DFG pays a mosquito abatement fee, but the Wildlife Area has never been asked to pay this. He noted that at Grizzly Island Wildlife Area, when DFG would lease out land for agricultural production, the County would charge DFG a "possessory interest" tax.

Commissioner van Loben Sels said that if the Legislature does not provide adequate funding for the Wildlife Area to pay its in-lieu taxes, this represents a loophole. Commissioner Curtis said that ability to pay in-lieu fees depends on the Legislature appropriating the funds. As Dave Feliz mentioned, DFG has made the payment every year for the last nine years at the Yolo Basin Wildlife Area. However, there was a time when DFG did not receive adequate authorizations to pay all of its required in-lieu fees Statewide. Commissioner van Loben Sels noted that this situation is similar to that of Stone Lakes National Wildlife Refuge, in that the property is being acquired in fee title by the U.S. government; the property was previously generating taxes and North Delta Water Agency fees, and has not been able to cover those taxes and fees under USFWS ownership. Commissioner Curtis agreed that if the Legislature does not appropriate adequate money to DFG, it cannot pay those fees, and added that in this case, DFG has a good track record of paying those fees. Commissioner Wilson asked about the North Delta Water Agency fees. Commissioner Curtis said that as far as he knows, DFG does not pay those.

Commissioner Macaulay asked if the Legislature doesn't appropriate the money in a particular year, does DFG's obligation then accumulate, similar to back taxes, or might they be required to pay State fees or contributions toward other uses, such as flood control projects? Commissioner Curtis said it depends on the will of the Legislature; they may or may not choose to charge back taxes. It has been done in the past. Commissioner Curtis added that DFG is the only State agency that pays an in-lieu fee; the legislation requiring this hasn't changed since it was established in 1956. The theory was, with establishment of a Wildlife Area, funds would

generated through activities such as hunting and fishing fees, so the property would be generating income and should pay a fee.

Commissioner Wilson asked for verification that DFG might pay County taxes, might pay mosquito abatement district fees, and won't pay North Delta Water Agency taxes. Commissioner Curtis said that if the mosquito abatement district charges DFG, it is required to pay.

Commissioner van Loben Sels said that the reason there's so much concern over these fees relates to the purchase of 9,000-acre Staten Island, which will ultimately end up in the hands of a public agency. Between the proposed acquisition in the Yolo Bypass, Staten Island, and McCormack-Williamson Tract, there's a total of over 23,000 acres transferred from private ownership to public agencies. He asked if the North Delta Water Agency is listed as a tax bill on that property, would DFG pay it? Commissioner Curtis said he didn't know the answer; he'd have to look into that.

Commissioner Curry asked if the Legislature doesn't appropriate enough money to pay all required in-lieu fees, but only some, how DFG would prioritize which fees it would pay. Commissioner Curtis said that in the past, DFG paid the smaller (population-wise) Counties first, where they thought it would make more of a difference in their budgets.

Commissioner Calone said that in the existing Wildlife Area, DFG currently has only 200 acres in agricultural production, and asked when the property was purchased, and how much of that property was in agriculture at that time. Commissioner Curtis said the existing Wildlife Area property was purchased from the U.S. Army Corps of Engineers in 1992; Dave Feliz said that a majority of the property was in agriculture at that time. Commissioner Calone said there was then a net reduction in agricultural acreage of approximately 3,500 acres; Dave answered that approximately 3,300 acres was actually converted to wildlife habitat. Commissioner Calone said that when enough agricultural production is lost, this reduces the ability to create food for the rest of the State and the world, as California is a big exporter of agriculture. What he's seeing in the Delta is a large reduction in the food-growing area, and another 13,000 acres of this area coming into public ownership, which in the same ratio would reduce agricultural production by another 12,000+ acres. Commissioner Curtis said he anticipates the ratio will probably be different in this proposed acquisition, because there is a lot of grazing activity which is expected to continue, but there will be some loss of agriculture, and he's interested in putting together a management plan. Commissioner Curtis said his personal hope is to be able to develop an area where there is wildlife-friendly agriculture as well as agriculture-friendly wildlife, and hopes to use this as a demonstration of how the two lands uses can operate together. Specifically, a lot of the grazing area is vernal pools and native grass habitat, and this natural environment is actually maintained by the grazing. There are parts of the acquisition that DFG will want farmed long-term, but the ratio and areas have not yet been determined.

Commissioner Calone asked if this property lies within the proposed North Delta National Wildlife Refuge study area. Commissioner Curtis said he believes that the existing Wildlife Area was not included within the boundary, but the Tule Ranch, now being proposed for acquisition, was within that boundary. Within that area, DFG had planned to buy the Tule Ranch property, and even though it would have been within the Refuge boundary, it would have been owned and operated by DFG.

Commissioner van Loben Sels asked if this acquisition would be brought into the CALFED umbrella target acreage identified in its plan (92,000 – 110,000 acres within the Primary Zone). He said there are features on that land that would serve CALFED needs, and it should therefore

be included within the CALFED target acreage. Commissioner Curtis said that DFG would like to make it applicable to CALFED goals, but it has to meet certain criteria. This is not technically a CALFED project, because it was not funded by CALFED, yet DFG as a CALFED agency subscribes to CALFED's goals and objectives and is committed to making the program work.

Patrick Wright, CALFED Executive Director, clarified that CALFED does not have acreage targets. CALFED has restoration goals and an impact analysis for if the worst-case assumptions are implemented, and this impact analysis was the basis for those numbers of what could actually be converted in a worst-case scenario. Certainly, this acquisition would contribute to the CALFED program, as it would to Yolo County's HCP, if developed in a way consistent with those goals. CALFED's restoration goals actually call for minimizing acquisitions, relying instead on easements and cooperative agreements with private landowners. CALFED is still struggling with how to define itself, because it's still a relatively new program. This is one of several projects that started before CALFED was created, and they're working to bring related agency actions not specifically called out in the CALFED plan under the CALFED "umbrella". They need to figure out a way to maintain the strong commitments CALFED is making with all the neighboring landowners, to ensure that as a management plan is developed for this particular property, we don't have different rules for lands acquired under CALFED than those for lands acquired by individual CALFED agencies. There's a lot of work to be done with member agencies to ensure the commitments being made through the CALFED process are dealt with adequately; this will be done in a way that meets not only restoration goals, but meets all the CALFED commitments that have been made over the past year to the agricultural community and to local Counties.

Commissioner Wilson if this acquisition has undergone scientific review at CALFED that other projects are subject to; Patrick Wright said it has not. Commissioner Wilson said that these major acquisitions by CALFED signatory agencies (including Staten Island, which is anticipated to be turned over to a State agency by The Nature Conservancy in the future) are not undergoing adequate scientific and public review. Patrick Wright clarified that Staten Island, funded by CALFED with State funds in 2000, did undergo the appropriate public and scientific review as part of the CALFED process; the review undertaken for this particular proposal was under the normal DFG and WCB review process, not the CALFED process. Commissioner Wilson said this "exception" to the CALFED process is worrisome; this acreage, not being a CALFED project, may not be incorporated into the CALFED umbrella. Patrick Wright said that when DFG puts together a management plan for this property, it will have to address all of these issues in order for the CALFED program and process to have credibility.

Mr. Wright said that DFG and CALFED are hoping to use the Yolo Basin Foundation's established Yolo Bypass Working Group and other forums to ensure that management plans are developed with local participation, putting the agencies in the position of having to respond to local needs and concerns as opposed to having the agencies develop management plans in isolation of those concerns. Commissioner Curtis added that DPC's Agriculture Committee and other interested parties would be invited to participate in the development of the management plan.

Chairman McCarty said that it seems that with this agenda item, there are two significant components. First, there is the process that brought the proposal before the DPC for consideration. The process is flawed, and there is a lot of concern about the process and how to avoid mistakes and effect a better process in the future. Second and more importantly, DPC as a Commission has to get information about this specific project and decide whether or not to take a position on it. He said he would like to keep the focus of the discussion on the project itself,



because continuing to focus on the process by which it was actually brought before DPC won't necessarily achieve anything by the end of the meeting.

Commissioner McGowan said that he raised critical threshold questions, because if the project doesn't fit within the CALFED process, then its value as a restoration project is at issue. The policy question for DPC is how it feels about this project fitting into the larger requirement that it believes it is going to have to deal with under CALFED in the future. Will there be some sort of a marriage between this proposed project and those CALFED requirements? What's the likelihood of that happening? These questions are of concern to him. Chairman McCarty agreed that this is a legitimate concern.

Commissioner Macaulay said he doesn't know what WCB can or cannot do in its approval of the proposed acquisition, but if it's possible for WCB to condition the acquisition, there are five things that could be addressed by WCB and DFG, as well as by DPC in its recommendations or comments:

1. Would fit with local County and City habitat conservation planning efforts.
2. Would address underlying fears about potential water transfers.
3. Commitment to a public process for development of the management plan.
4. Coordination with CALFED.
5. Intent to pay in-lieu fees and to address the issue of having any obligation accumulates much like subventions do.

Commissioner Curtis added a sixth: formally request WCB to notify DPC if there are any proposed acquisitions within DPC's jurisdiction. He said that most of the conditions that Commissioner Macaulay suggested are conditions that WCB normally doesn't place on acquisitions, however, there are three voting members of WCB: the director of DFG, the chairman of the Fish and Game Committee, and the Director of the Dept. of Finance. If these conditions were put into a letter, he's sure WCB would ask the DFG Director how he feels about those conditions, and at the very least the Director would publicly respond, and the concerns would be noted in the public record.

Commissioner Macaulay asked if these issues could be formal conditions of the acquisition; Commissioner Curtis said these are more appropriately management obligations that should be agreed to by DFG, who will own the property once WCB turns it over. Commissioner McGowan clarified that these conditions would be applicable then to the management plan, not necessarily the acquisition.

Chairman McCarty went to a more basic threshold question: in light of the CALFED process and its magnitude, perhaps how things were done in the past needs to be changed so that we can affect better coordination with that process. Commissioner Curtis said that he doesn't think DFG would have a problem with these conditions; in fact, that's the direction DFG is headed in. Ultimately, the Director will decide, but Commissioner Curtis will recommend to him that DFG work closely to ensure that this acquisition fits into the local NCCP/HCP processes. Commissioner Curtis and Dave Feliz are personally responsible for ensuring the management is developed in an open public process. DFG is committed as a signatory to CALFED to ensure that this fits in with CALFED goals, objectives, and obligations, and committed to paying in-lieu fees contingent upon adequate legislative appropriations.

Commissioner Shaffer said he has been at several meetings about this project, and has been in some discussion with Commissioner Curtis about issues of concern in relation to agriculture associated with this acquisition. DPC has been actively participating as a signatory to CALFED for almost two years, and has been voicing these agricultural issues for a long time, but CALFED

is not close to resolving these issues. The fundamental problem is in assessing cumulative impacts to agriculture; this type of end-run process (the use of the Categorical Exemption) doesn't allow for that analysis. He referred to some information from the WCB website, which states "the acquisition activities of the WCB are carried out in conjunction with DFG recommending priorities for proposed acquisitions. Following the DFG site evaluations, recommendations are submitted to the WCB for consideration for funding." He asked that if there is some sort of site evaluation, could there be built into the process an option to purchase for a specified shorter time period while the complete evaluation is done, so that the management plan and its impacts are known? Have easements been considered rather than outright purchase? Commissioner Shaffer is currently involved in discussions about the ongoing MTBE/ethanol production issue, and this could be a huge opportunity for corn production both for livestock needs and for ethanol needs in the State. Some of those degrees of freedom are lost if the government owns the land and has developed this management plan rather than allowing that local partnership and dialogue among landowners to occur.

Commissioner Shaffer asked what the CEQA process was with respect to the 1992 Yolo Bypass Wildlife Area. Commissioner Curtis said DFG did a Negative Declaration for the management plan on the existing Wildlife Area. Commissioner Shaffer questioned the adequacy of a Neg. Dec in light of the fact that 3,500 acres of agricultural land were lost; this demonstrates his point that it is too late for adequate impact analysis once the acquisition has already occurred. CDFA is not in a position to challenge, but these issues keep coming up, and there is no way to address the cumulative impacts to agriculture the way the process has been adhered to over the past 5-6 years.

Commissioner Shaffer said there has been a very strong question of CALFED nexus, and asked the likelihood that CALFED funds would be contributed to development of the management plan for this project. Commissioner Curtis said this could be an option in the future, if DFG does not have adequate funding; if that is the case, there would be a direct nexus to CALFED in that CALFED would have more direct control over the development of the management plan, and could condition the contract to address specific concerns. Commissioner Shaffer read one of the goals identified in the CALFED ROD: "Restore habitats in the Delta, other regions, and the Yolo Bypass, including tidal wetlands and riparian habitat. In addition, 8,000 –12,000 acres of wildlife-friendly agricultural lands will be established during Stage 1 (the first 7 years), in cooperation with local participants." He noted that this proposal far exceeds that identified acreage, and said he doesn't see any coordination with CALFED at the outset for this project.

Commissioner Shaffer said that in regards to water transfers, CDFA is strongly supportive of keeping water in the local area, but it is concerned with the transfer of water from agriculture to wildlife. As the management plan is developed and native vegetation needs are identified, they may far exceed the water required for the crop production currently in place.

Commissioner Cabaldon asked whether it would be appropriate for DPC to ask the WCB to condition the acquisition, and ask the Director of DFG to put these commitments clearly in writing before WCB takes its action. While the Power Point presentation is part of the public record, the notions of working with the locals on HCPs, coordinating with CALFED, holding open meetings on management plan development, and guaranteeing no water transfers are all general statements, so given the history of this issue, it would be important for DPC to get some clarity about what is really being committed. He said he supports this proposal and habitat restoration in the Delta in general, but he also understands and shares in the anxiety of this restoration because of the perceived disconnect in Yolo County between the NCCP/HCP process, this individual WCB/DFG project, and the unknown prospect of additional acquisitions and easements from CALFED. This project, in combination with the existing Wildlife Area, would

take up 80% of West Sacramento's western border, and the eastern and northern borders are urbanized; there are not many other options for West Sacramento to mitigate its development. Without meaningful coordination up front among these various processes, all of Yolo County's unincorporated area could become habitat conservation areas, in which case the County could not generate the tax base needed to provide essential services. He asked Commissioner Curtis if he'd spoken with the Director about making these commitments in a formal way with significant detail. Commissioner Curtis said he had not spoken with the Director specifically about putting these commitments in writing in the form of an MOU. Commissioner Curtis has discussed all these issues with the Director, and this is the direction they want to go in. He asked if a public statement at the WCB public meeting would be sufficient, or if a letter or MOU would be more appropriate. Commissioner Cabaldon said it ought to be a written letter, and the best forum for that is the DPC, where the discussion should have started.

Chairman McCarty said there were a number of people in the audience interested in addressing DPC with their own views, and opened the public hearing.

Tom Stallard, Yolo County Supervisor, District 3, said he wrote the letter that was distributed at the meeting that night. He said this could be a good project, and he feels ambivalent because he supports habitat and wildlife preservation, but it is not the only thing he has to consider. With respect to agriculture, what is happening statewide has already happened in Yolo County. The County is very tight with its land use, both within the Cities and in its County policies, in favor of agriculture, and when 20 square miles of land is acquired in a single purchase, this quickly eclipses all of the development that's occurring in the County for some period of time. Yolo County agriculture was down 11% in 2000; for 2001, with the closing of two tomato canneries and Spreckels Sugar, a further decrease is expected. Yolo County farmers are depressed; an acquisition like this has the potential of adding to their demoralization. He said the Board of Supervisors has retained a good political balance in Yolo County with concern for preservation of agriculture and habitat conservation, and he worries that something like this happening so quickly will cause people to bolt from discussions of any such acquisitions in the future. The only discussion about this area Yolo County BOS had was last year, when they were considering the 47,000-acre North Delta National Wildlife Refuge proposal. Even at that time, BOS agreed that was too much land, and talked about a smaller Refuge, focusing on the southern end where about 12,000 acres of land is already owned by the federal government; this proposal is still pending. BOS is less concerned about that acreage, because it's currently flooded and in federal ownership due to levee failures. There has not yet been a public meeting on this proposed acquisition in Yolo County; the first public meeting would be held the following Tuesday at the BOS meeting, two days before it is to come before the WCB, and he feels he has not carried out his duty to his constituents to protect their interests. He mentioned the proposal to the mayor and the manager of West Sacramento; neither of them had heard about it, and both have major concerns about mitigation. He's worried that as people retire from government service, new staff forgets about previous commitments, and the burden falls on local government to present evidence of those commitments in the hopes of having it make some sort of difference; the Yolo County HCP process has had to start over again at least twice, partly because of turnover at USFWS.

George Bayse, attorney for California Central Valley Flood Control Agency (CCVFCA) said all districts surrounding the Yolo Bypass are part of this association. As he reads USFWS's authority from Congress, it is first in priority on whatever they have as a preserve and whether that includes adhering to the State Reclamation Board remains in question; he's not concerned about DFG ownership in that regard. Nevertheless, CCVFCA members are anxious to see the preservation of the capacity, not only present but also future, of the Yolo Bypass. In the future, the ability of the Bypass to carry flood water may require an increase in capacity, and that's very

likely going to come out of the Comprehensive Study that the DWR and Corps are working on. Anything done in the Bypass needs to be consistent not only with CALFED, but with that study, which is looking at the Bypass and the need for its future capacity for flood control. Also, with regard to Commissioner Shaffer's comments about environmental review: CCVFCA would be very anxious to see some more environmental depth of analysis than has been done, which he understands was a categorical exemption or negative declaration meaning assumption of no impacts. While that may be a true assumption, it certainly needs to be analyzed to be sure it's true, and have those assurances made in a formal manner, which the CEQA process would require. Also, as an attorney for North Delta Water Agency (NDWA), he wanted to emphasize the potential loss of revenue to the County and to the NDWA. NDWA comprises 300,000 acres, which are the northern portion of the Delta, including all of the land involved in this project. NDWA has a contract with DWR to provide assurances as to quantity and quality of water within its jurisdiction; NDWA pays about \$300,000 for that assurance. Costs to the local landowners are about \$1.80 per acre, but federal and State lands do not pay that. If this land is going to be acquired by DFG and they don't pay these taxes, then that portion has to be picked up by the other landowners. It doesn't help to have the assurance that if DFG had the money, it would pay the taxes based on what the landowner paid at the time of sale, because the DWR raises NDWA's rates every five years, so that needs to be taken into consideration, as well.

Becky Sheehan, California Farm Bureau (CFB) said CFB is deeply concerned about the land acquisitions that have been occurring in the Delta. The Glide Ranch is very productive farmland with a long history of being farmed; it has accommodated tomatoes, safflower, corn, and grazing, and is very significant and valuable agricultural acreage. It is currently under Williamson Act contract, as is all the land around it, and is classified as "prime" agricultural land. Her concern with the project is that it is going the same direction as Prospect Island. Prospect was purchased with an exemption, claiming that it would not be converted out of agricultural use; then the land sat, and was mismanaged, when the management plan was finally formulated, the "no-action" alternative was government ownership of land that's mismanaged, not private ownership of agricultural land. The impact of that conversion was never considered; the project was just finalized, so that impact will never be considered. Also, the North Delta National Wildlife Refuge appears to be on hold, but that project's already here; it's been piecemealed. By considering establishment of the Refuge in small parts, USFWS has been able to claim an insignificant impact to farmland conversion, but cumulatively, the impact is significant, and this impact has never been and never will be considered. Under CEQA and NEPA, a project cannot into smaller parts in order to avoid considering those impacts. She mentioned that in the slide show presentation, there was brief discussion about selling excess property with conservation easements or agricultural easements. She pointed that these are two very different things – a conservation easement is for habitat, and is not designed to protect agriculture in a productive way; an agricultural preservation easement is only the purchase of development rights on that land. Also, agricultural leases do not represent a long-term commitment to agriculture. She is also concerned about water transfers. She appreciates the good intent of saying that DFG is not going to transfer water outside of Yolo County, but unless it's in writing, it may not hold up when personalities change in agencies. Also, there is going to be a water transfer – it will no longer be available for agricultural use, only habitat use, and if water does move around, it will be between environmental uses. CFB believes that the government does not need to buy these lands in fee in order to develop habitat; it is possible to do both. CFB urges future projects in this area to be cooperative with the land staying in private ownership, in productive agriculture, and farming for habitat through agreements with the government.

Mike Hardesty, manager of RD 68 and president of CCVFCA, said RD 68 exists and operates on the southwestern boundary of the proposed acquisition. The Yolo Bypass is the largest feature of

the Sacramento River Flood Control Project; a central component to the draining of the Central Valley. Those in the flood control community insist that not only the current capacity, but the future needs for flood control in the Central Valley, be respected with regard to operation of the Yolo Bypass; this means that projects existing within the Bypass, as with private ownership's existing there currently, recognize that flood control needs may change in the future, and the time, depth, and duration of flooding, may be increased. Also, following the Prospect Island example, is the issue of negligent or passive management of lands within the Bypass. As nothing gets done with these properties, weeds replace the agricultural production that used to occur there. Liberty Island is essentially a useless piece of property; it won't even meet the expectations of USFWS for inclusion in the proposed Refuge because it has now reverted to a condition where they can't even work with it. This passive management has the potential of severely impacting the current flows through the Bypass; that can't be allowed to occur. Another issue is the issue of Cities and Counties being able to use acreage within the Bypass to mitigate their development as part of their HCPs. The same concepts need to apply to mitigation for flood control operations and maintenance on the facility; flood control officials need to be able to access those same mitigation lands. Regarding local operations, there is concern that public ownership on the boundaries of an active and productive agricultural area do have an impact, that being the restrictions that come from having to deal with passive management on acquired lands. He said he'd like to see a very strong commitment on the part of DFG to avoid impacting adjacent agriculture, to make up-front commitments to neighboring individuals that it will act responsibly and in a timely fashion, to ensure peaceable coexistence.

Chris Fulster, president of Glide-In Ranch, said GIR owns property just south of the proposed acquisition. He says farming is a very important part of this property, and should be maintained in farming rather than converted to wetlands. He also expressed concern about whether other landowners are going to have to pay more taxes than DFG, and whether DFG's fees are going to be passed on to them.

David Morrison, Yolo County Planning, asked about the reduction of the target thresholds for the NCCP. He said DFG only represents State listed species, not federal listed species, and asked if there was some provision that would address federal mitigation requirements as well as State. Commissioner Curtis said that both would be addressed. In the NCCP programs being implemented in southern California, if it was a covered species that was listed by the State and federal governments, some acquisitions were made by the State, some by federal government, but both counted toward the target acreage; that's what would occur here. Mr. Morrison asked if this specific property had been discussed with USFWS; Commissioner Curtis answered that it has not, but he doesn't anticipate a problem. To the extent that State or federal government can provide some of this target acreage, that's that much less that local jurisdictions have to provide.

A woman in the audience asked about the cost per acre of this property. Commissioner Curtis said the cost was about \$1330 per acre.

Chairman McCarty closed the public hearing.

Commissioner Ferguson said that from a farming standpoint, agriculture and wildlife habitat are not always completely compatible land uses. For example, the General Plan Update for San Joaquin County shows everything west of the San Joaquin River and north of Old River as CALFED habitat by 2040; right now, that's all prime agricultural land. San Joaquin County's Agricultural Commissioner said he'd find exception to using a Class I substance on this land because the area is designated a habitat area, so there are restrictions to maintaining farming on prime agricultural land associated with the habitat designation. He thinks this all goes back to the

process of getting key people involved, including Ag Commissioners, in the process, to analyze specific scenarios to see if agriculture and wildlife really could coexist.

Commissioner Shaffer said CDFA is preparing comments on the acquisition, which will go back through Dept. of Conservation before going to WCB, and will be addressing a lot of these issues regarding impacts to adjacent lands.

Commissioner Wilson said the CEQA process should happen before, not after, acquisition. DPC consideration came by lucky happenstance; there was no formal notification. He doesn't think this acquisition should go forward, and thinks that DPC should make a statement to that effect. The actual acquisition of the land, not the management plan that results from the acquisition, is the big issue; once DFG owns the land, it can do whatever it wants with it.

Bill Curry asked Commissioner Curtis why can't the agricultural issues be addressed in the documents under which the land is sold. Commissioner Curtis replied these would be more adequately addressed in the management plan. The WCB role is to act as the purchasing agent for the land; DFG's role is to determine what the management of that land is; this is how the partnership is developed in the legislation that established WCB and DFG. He called on Al Wright, WCB Executive Director, to address this question further.

Mr. Wright said that the transactions WCB undertakes are negotiated before decisions are made, and often those negotiations take some time. He said that DFG will be responsible for committing to various conditions as part of the management of the property. He sees this as an opportunity for the Director to put something in writing by the time of the WCB meeting about DFG's commitments as part of the planning process once the acquisition's been completed. Commissioner Curry asked for clarification as to whether the land remains in WCB ownership until DFG begins management of the property; Mr. Wright said that once the WCB takes title to land, it takes the title in the name of the State, at which point it is turned over to DFG (or another State agency).

Chairman McCarty said that DPC has an opportunity to look at where it is on the balance scale between agriculture, habitat, and recreation in the Delta. DPC has an opportunity to comment on an acquisition that could have a significant impact on the Primary Zone of the Delta. To that end, DPC could choose to support this acquisition by way of a letter of support addressed to WCB. DPC could choose to oppose the acquisition because the process is flawed, and ask that the appropriate CEQA review be undertaken. DPC could also support the proposal conditionally, and attach the conditions discussed at the meeting relative to the controls and channels that DPC wants this acquisition to travel after it's complete. He asked for a motion for discussion on those actions, or alternatives.

Commissioner Macaulay commented that he'd like to see DPC weigh in on its concern about this and future acquisitions, that enough time exists between when a tentative deal has been cut with WCB negotiators and when the WCB actually takes action on the deal. He thinks DPC should also weigh in specifically on the baseline issue, to ensure that the baseline is current agricultural practices on the property as will be maintained over the next five years the management plan is being developed.

Assemblymember Helen Thomson said that the existing Wildlife Area in the Bypass has been a very long project, and many of the same issues were raised when the first discussions were started by Yolo County BOS and interested parties. She noted that real estate transactions by nature often occur in secrecy, and public agencies don't often let people know what they're negotiating.

There's a glitch here that may be fixed somehow in the process for the future, because it's easy to see the lack of trust that develops when it happens in this manner. She suggested that DPC put its concerns in writing, ask that they be considered as part of the management plan, and designate people to participate in management planning. She added that everyone is concerned about losing farmland, however, had this property been sold to another private individual, one proposal she heard about was that it would be turned into a water farm and water would be transferred; this does not help agriculture either. On balance, while it's a frustrating experience to have to react after a decision has been made, most of what happens with this project will be determined from this point forward as the management plan is developed; this is where DPC can have its most important impact.

Chairman McCarty asked for a motion. Commissioner McGowan abstained from taking an action, because the matter is coming before Yolo County BOS on August 28. He reiterated his concern about the degree to which this project is integrated with CALFED. He said DPC is put in a very precarious position, because not supporting the project may make DPC appear stubborn and obstinate, but to support it under these circumstances puts DPC in the position of putting all its faith in the same bureaucracies that have not been responsive to its cries of participation in the past.

Commissioner Wilson said that he thought DPC in good conscience has to oppose the project, because the process is flawed; it is going too fast. He made the motion that DPC oppose the project because it's not subject to CEQA and has not undergone CALFED review. Commissioner Calone seconded the motion.

Commissioner Lynn Bedford asked if there had been notification of adjacent landowners in regards to the limits that are going to be placed on their property as a result of the acquisition. Commissioner Curtis said that written notification was given to all adjacent landowners that this would be on the WCB agenda; this notification was sent out in early August. DFG hasn't specifically discussed the acquisition in detail because the decision hasn't been made yet.

Chairman McCarty said that on principle, one should oppose this acquisition because of the process, because the answers aren't available. However, that's essentially drawing a line in the sand, versus recognizing that this is a foregone conclusion, that the project is going to be approved, and whatever DPC action is taken in the form of opposition is going to have very little impact on this transaction. If DPC instead uses this opportunity to weigh in with what its concerns are relative to this and future projects, then it's opened the doors to impacting the final product and more importantly opened dialogue in a process to affect future proposals. Commissioner Wilson said that he believes this is probably a good project; his intent with the motion to oppose it was to complain about the process. If DPC conditionally supports the project with numerous conditions, it would essentially be saying that the process is OK; he's not willing to do this, and feels strongly that DPC should make a statement opposing projects that have not undergone adequate CEQA and CALFED review.

Commissioner Cabaldon said we've been talking about the process for a long time, even before this acquisition came up. The issue was before DPC when considering the proposed Refuge; the input DPC received from various people is that whatever the outcome, they don't want it owned by USFWS. DPC's ability to influence the future management of this property would be reduced to nothing if USFWS owns it; its ability to achieve some other objectives is much stronger if DFG holds the property. If DPC opposed the acquisition, and WCB abandoned it, there are three things that could happen: the negotiations could continue and DPC could work these issues through, but there is no guarantee that the current landowner will be interested in a long,

protracted set of negotiations; the land could be sold to the water farm; or the proposed Refuge moves forward and USFWS by some means acquires it. None are good alternatives. It would make him feel better to condemn the process through which this acquisition has come about, but he fears the alternatives more than he fears proceeding with this project if there is some way to address the issues that DPC has laid out.

Commissioner Thomson said that as a Solano County Supervisor, he is torn between supporting Commissioner Wilson's motion and being a realist. Solano County BOS has been negotiating with TNC on the Wilcox Ranch acquisition since the day after Commissioner Curtis made DPC aware of it, so they're further along, but as a locally-elected official, he was astounded by the lack of local input. The Wilcox Ranch acquisition (outside of the Legal Delta) consists of land around Travis AFB, which as a LAFCO member he fought many battles with developers trying to protect. TNC purchasing the land is the other end of the spectrum in his opinion, equally as dangerous to Travis's mission and expansion. He agreed with Commissioner Cabaldon that if the federal government gets involved, DPC and other local entities wouldn't have the opportunity to influence management activities. He said the process is flawed, and needs to be changed, but to simply oppose this acquisition is not the appropriate position for DPC to take. He said that the issues raised tonight need to be well documented when the project comes before WCB for approval.

Commissioner Shaffer said there is agreement that the process is flawed, but supporting the acquisition and putting conditions on the development of the management plan does not send this message clearly enough. He offered a subsequent motion: that DPC ask the WCB to postpone the action until more information can be brought to bear on the project; if WCB rejects that request, DPC could then list the conditions it wants to see in a management plan. He clarified that DPC would be making a statement about the process, not making a value judgement on the project itself.

Commissioner Wilson said the project could be a good project, but the time for providing meaningful input has not been adequate, and the WCB hearing, a two-hour meeting with over sixty items for consideration, may not be the appropriate forum in which meaningful input can be given. He offered an amendment to his motion: that DPC ask WCB to delay this acquisition until it's had a chance to explain the situation better to Yolo County BOS and to DPC. If WCB decides to move forward, DPC could offer the conditions under which it would support the project.

Commissioner Thomson said that his understanding was that there is an option that has to be exercised by Sept. 4, or the acreage could go back onto the market; this is not an easy or simple scenario. He appreciates the concerns, but cautioned that if this acquisition is held up, the Yolo Bypass could be placed in more jeopardy than is currently proposed.

Commissioner Wilson withdrew his initial motion of opposition to the project, and made a motion for DPC to object to the process of acquiring land without the appropriate CEQA, CALFED, or other necessary public review being undertaken, with no comment as to whether it opposes or supports this particular project. Bob Calone seconded the motion. Chairman McCarty put the matter to a vote. There were five Commissioners in favor, seven Commissioners opposed, and two abstentions. This motion did not pass.

Commissioner Macaulay suggested a motion in two parts. First, DPC would weigh in recognizing the serious concerns DPC has regarding the process for acquisitions. Second, DPC would rise above principle and recommend that if WCB acquires the property, certain



commitments be made by DFG. First, those DPC members are designated to work with DFG to come up with the management plan. Second, that there be strong coordination with local government development of HCP/NCCPs. Third, that water not be transferred out of Yolo County. Fourth, that there is a commitment for an open public process in the development of the management plan, including CEQA analysis. Fifth, that this be integrated with CALFED; that we recognize that all CALFED agencies act in a common manner toward the common CALFED blueprint, which is that anything having to do with ecosystem be coordinated. Sixth, the intent to pay in-lieu fees as appropriate (possible legislative component). Seventh, that agricultural leases be maintained through the completion of the management plan, addressing the baseline issue brought up by CFB and CDFA. Chairman McCarty said for clarification on the in-lieu fees, DPC should specifically address NDWA fees. Also, an additional condition should be included regarding the ability to accommodate flood control needs, as required. Dwight Sanders seconded this motion.

Commissioner van Loben Sels said that within DPC's Land Use Plan is a policy stating that there should be mitigation, for land that is converted out of agriculture, within the Primary Zone; there is no proposed mitigation for this acquisition. Also, recreation is at issue here; portions of this property have been used for formal and informal recreation activities over the years, and the loss of recreation opportunities here are not being mitigated. His amendment to the motion: that this project conform to DPC's Land Use Policy P-8, which states that mitigation in the Primary Zone for loss of ag lands in the Secondary Zone may be appropriate if the mitigation program supports continued farming in the Primary Zone. Chairman McCarty said that if DPC recommends participation in the formation of the management plan, that specific recommendation would be a result of that participation, as opposed to a specific action.

Commissioner Shaffer said he doesn't think DPC has quite gotten at CDFA's fundamental concern over how cumulative impacts to agricultural land are going to be addressed in this process; Commissioner van Loben Sels is trying to get at that issue in terms of DPC's policies on land use within the Primary Zone. He would support the motion if that could be incorporated. Also, it is specifically stated in the CALFED Record of Decision that conversion of prime agricultural land is a significant impact, and there will be an effort to mitigate those impacts; this calls to the nexus of the project with the CALFED program, as well.

Commissioner Cabaldon said DPC ought to direct Ms Aramburu to incorporate all the issues into a condition letter, and circulate it to the Chairman and other directly interested Commissioners for review before it gets to WCB. Also, DPC ought to state affirmatively that the management plan ought to be subjected to a higher level of environmental review, such as an EIR, that will allow DPC and others to get to the question of analysis of cumulative impacts. Third, DPC should support the project, articulating the conditions in a clear way, because of what the likely alternatives for the acreage are, and because there is value to this project.

Commissioner Curry asked what happens if the management plan is not in place in five years. Commissioner Curtis said that as he understands the conditions included in the motion, the Director would be required to extend the agricultural leases until the management plan has completed its environmental review process. He suggested that where the DPC is stating its belief that the process is flawed, it should also add that it needs to be notified formally of any land acquisitions occurring within its jurisdiction. Chairman McCarty said that could be addressed in a separate letter.

Chairman McCarty said that DPC participation in the creation of the management plan for this property gives it a seat at the table to address in specificity details that will come up in the future.

DPC can't resolve all these issues and write the management plan tonight, but it could create a framework to comment and participate. It is important that DFG commit to undertaking CEQA and EIR responsibilities on that plan, which means DFG would have to address mitigation requirements if land is removed from agriculture. That said, he asked for a motion on Commissioner Macaulay's motion (seconded by Commissioner Sanders). There were nine Commissioners in favor, four Commissioners opposed, and one abstention (Commissioner McGowan). The motion passed.

Ms Aramburu committed to provide Yolo County BOS with DPC's formal motion; she would draft it and have it reviewed by the Chairman and by Commissioner McGowan before Tuesday, August 28.

## **9. Adjourn**

The meeting was adjourned at 9:00 p.m. The next scheduled meeting of the Delta Protection Commission is Thursday, September 27, 2001.